

FILED
JAMES BONINI
CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Charles J. and
Therese A. Thurston,

Plaintiffs,

v.

Case No. C1 02 363

United States of America,

MAGISTRATE JUDGE HOGAN

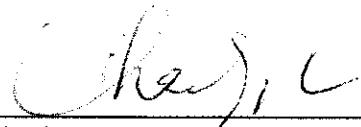
Defendant.

**MOTION OF PLAINTIFFS FOR AN ORDER THAT
THEY BE PERMITTED TO RESPOND TO REQUEST FOR ADMISSIONS
OUT OF RULE**

Counsel for plaintiffs entered the case on November 3, 2003, by way of Notice of Appearance filed that day. Just prior to the recent Holiday Season, counsel for plaintiffs received from their former counsel his complete file and related materials. After counsel's review of the same, it appears that plaintiffs either failed to respond to the United States' First Request for Admissions OR they were served but for some reason counsel for the United States do not have them. Counsel's above statement is made because of his discovery in the file materials of what appears to be plaintiffs' Response to the United States' First Request for Admissions. A copy is attached hereto, and the purported date of service is February 6, 2003. At that time, plaintiffs were represented by yet another attorney who signed the Response.

Since plaintiffs feel comfortable with the content of the Responses, they request leave to re-serve upon defense counsel the attached Response to the United States' First Request for Admissions or, if the attached Response has never been served, they request leave to serve it.


For the foregoing reasons, plaintiffs request that the Court permit the attached Response to the United States' First Request for Admissions to be served out-of-rule or re-served upon defense counsel so that plaintiffs are not "stuck" with the Admissions being deemed admitted to be true.


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing has served by ordinary U.S. Mail this 8th day of Jan, 2004, upon the following:

Michael Davis, Esq.
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office 55
Ben Franklin Station
Washington, D.C. 20044


Charley Hess